

THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Chapter VIII, Rule 32(2) (b)

Description of case

Special Appeal No. 28 of 2004

Date of decision: 28th August, 2004

For the approval of:

Hon' ble Chief Justice V.S. Sirpurkar.

Hon' ble Mr. Justice Irshad Hussain.

- Whether the order/judgment should be sent to the reporters for reporting? ()
- Whether the reporters be allowed to see the judgment? (yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 28 of 2004

State of Uttaranchal and others Appellants

Versus

Ramesh Chandra Respondent

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Sri K.P. Upadhyaya, Advocate, learned counsel for the appellants
Sri K.N.Joshi, learned counsel for the respondent.

Coram: Hon. V.S. Sirpurkar, C.J.

Hon. Irshad Hussain, J.

Dated: August 28, 2004

[Per Hon' ble the Chief Justice]

1. Heard learned counsel for the parties.
2. We are not interested in entertaining this appeal at all. This appeal is against the order passed by the learned Single Judge, by which the learned Single Judge has stayed the cancellation of the petitioner's transfer. He was transferred from Tehri Garhwal to Udham Singh Nagar, that too in a different situation. This order was passed on his own request. The transfer order is dated 17.06.2004. he was not relieved till 17.07.2004. When he went to Udham Singh Nagar he was not allowed to join there. In the meanwhile, a subsequent order came to be passed, canceling his transfer. The petitioner immediately approached this Court and obtained the stay order. That stay order was tried to be got vacated by the State by pointing out that there was also an order dated 20.07.2004 passed by this Court in writ petition no. 195 of 2004, staying the general order of transfer, which covered the petitioner's case also. It is to be seen that by that general transfer order, 52 persons were transferred. The aggrieved persons challenged that general order of transfer in this Court. This Court after hearing the parties stayed the operation of that general order of transfer dated 17.06.2004. Before that order was known, the respondent hearing (petitioner in the original petition) was already relieved from Tehri Garhwal. This is apart from the fact that the cancellation of the transfer order came even before the Division Bench passed the order staying the general order of transfer. Now, the learned

Counsel appearing for the appellants, before us was not able to justify the order of cancellation of transfer. He says that perhaps because the petitioner therein was transferred from one division to another division, his transfer order was canceled. He further says that there were as many as 12 teachers whose transfer orders were cancelled. He is not, however, in a position to make a definite statement before us that all the inter-division transfers were cancelled by the order dated 17.07.2004. This order seems to have been individually passed. Surely, the Director could not have adopted pick and choose policy. If the transfers were to be cancelled only on the ground that they were from one division to another, then all the transfers should have been cancelled. That does not appear to be the case. In our opinion, the learned Single Judge was right in holding that since the petitioner was already relieved from Tehri Garhwal and was clamouring for being allowed to join at Udham Singh Nagar, there will be no question of interfering or vacating the stay order granted. We agree with the reasons of the learned Single Judge, The appeal has no merit.

3. The appeal is dismissed accordingly.

(Irshad Hussain, J.)

(V.S.Sirpurkar, C.J.)

28.08.2004

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